

**CITY OF LEBANON  
DRIVEWAY REGULATIONS**

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## **SECTION 1 Authority.**

These regulations are adopted by the Lebanon Planning Board under the authority of RSA 236:13 – 236:14.

## **SECTION 2 Purpose.**

The purpose of these regulations is to ensure that driveways in the City of Lebanon are constructed and installed in a way which protects and enhances the continued function and safety of City highways and sidewalks, and the driveways themselves, and further, to assure that existing driveways are maintained in a way which does not adversely affect such highways and sidewalks.

## **SECTION 3 Permit Required.**

No person shall construct or establish a new driveway, or shall modify, reconfigure or relocate an existing driveway in any manner which affects the area within the public highway right-of-way with respect to location, width, grade, entrance, exit, approach, drainage or associated structures, without first obtaining a driveway permit from the Director of Public Works or the Director's authorized agent (hereinafter "Director"). The Director shall adopt an application form, and may require additional information or plans, depending on the location and design of the driveway.

## **SECTION 4 Permit Contents, and Standards for New Driveways.**

The contents of all driveway permits, and the location, dimension, and construction standards required for all new driveways, shall, unless a waiver is granted under Section 9, conform to RSA 236:13 and to the procedures, requirements and standards set forth in the "*Policy for the Permitting of Driveways and Other Accesses to the State Highway System*" as adopted by the N.H. Department of Transportation on March 10, 2000, or any amendments thereto, (hereinafter "DOT Policy"), except to any extent that the DOT Policy is inconsistent with these regulations or with any other ordinance or regulation of the City of Lebanon. All references to the "District Engineer" in the DOT Policy shall be deemed to refer to the Director.

## **SECTION 5 Additional Standards.**

The following standards shall also apply to new driveways, and shall supersede the DOT Policy, to the extent of any inconsistency:

- A.** For a driveway serving no more than one or two residential dwelling units, the desirable width of pavement or other improved driveway surface shall be twelve feet, with a maximum of 15 feet in width, except where flared at its junction with the traveled way.

- B.** All driveway sidewalk crossings shall conform to current standards under the Americans with Disabilities Act.
- C.** No part of a driveway shall be sited within five feet of the side property line of an adjoining property, unless waived under Section 9. No part of a driveway shall extend beyond such a property line without a recorded easement executed by the adjoining owner, or, in the case of a temporary driveway, written permission of the adjoining owner.

## **SECTION 6 Uses Requiring Site Plan Review.**

For driveways giving access to developments which require Site Plan Review, driveway permits shall be subject to the standards and procedures in these regulations, but in addition shall be reviewed by the Planning Board as part of Site Plan Review. For all properties subject to an existing Site Plan approval, no new driveway or driveway modification requiring a permit under these regulations shall be constructed or installed without a new or amended Site Plan approval, unless waived by the Planning Board under Article VII of the Site Plan Regulations.

## **SECTION 7 Modifications Of Existing Driveways.**

For an existing driveway which does not comply with these regulations or DOT Policy, but which did comply with any standards in effect at the time of construction, the owner of property served may modify, reconfigure or relocate that driveway without bringing it into compliance, so long as the use of the property served is not being changed in a way which requires Site Plan Review. In such cases the Director shall issue a permit upon a finding that full compliance would entail practical difficulties, and that the modified driveway protects and enhances the public interests served by these regulations to at least the same degree as the driveway prior to modification.

## **SECTION 8 Stone Walls.**

In accordance with RSA 472:6, no stone wall or other boundary marker which is located along the boundary of a public highway shall be breached by the construction or establishment of a driveway unless specifically authorized by a permit issued under these Regulations. The permit shall specify the width of any authorized breach.

## **SECTION 9 Waivers.**

The Director may waive or modify, as part of a written permit, any of the substantive provisions of these regulations or the DOT Policy, including the granting of extensions of time, for good cause shown, upon a finding that the interests of public safety and welfare will not be adversely affected. A waiver request submitted with a permit application shall

include a written public safety and welfare justification for the waiver. A waiver may be granted subject to such conditions or alternative standards as the Director deems reasonable to further the purposes of these regulations. For driveways serving uses requiring Site Plan Review, no waiver shall be valid unless approved by the Planning Board as part of a Site Plan decision.

#### **SECTION 10 Fees.**

Driveway permit fees shall be collected in accord with the fee schedule established in City of Lebanon Code, Chapter 68, as amended.

#### **SECTION 11 Highway Files.**

A copy of every permit issued under these regulations shall be placed in the City's file pertaining to the public highway involved.

#### **SECTION 12 Continuing Owner Responsibility.**

All owners of property served by a driveway, whether pre-existing or subject to permit, shall have a continuing duty, including a financial responsibility, for maintaining that driveway on an ongoing basis, including any grades, ditches, culverts, or other structures appurtenant to it, in such a condition that the adequate and safe function of the public highways, sidewalks, and the driveway itself, does not become adversely affected.

#### **SECTION 13 Corrective Order.**

- A.** The Director may issue an order to the owner or owners of property served, or to other persons with control over the property, to repair or remove the threat or hazard. Whenever any driveway becomes a threat to the integrity of the public highway or its surfaces, ditches, embankments, bridges, or other structures, or a potential hazard to the safety of highway, sidewalk or driveway users by reason of siltation, flooding, erosion, icing, frost action, vegetative growth, or the failure of any culvert, traffic control device, drainage structure, or any other feature.
- B.** The order shall describe the threat or hazard, shall describe what corrective action is required, may set forth a time within which the owner or owner's agent must submit for approval a plan for the repair, alteration, or other work, and shall set forth a time within which the corrective action shall be completed. The order shall be sent by certified mail.

- C.** If the order is not complied with within the time prescribed, the Director may cause the repair, alteration or other corrective action to be completed by the City. As set forth in RSA 236:13, VI, the owner or owner's agent shall be liable for the City's full costs in taking such action.
- D.** If the Director determines that the issuance of an order under this section would create unnecessarily delay in correcting an imminent danger or hazard, or would otherwise be contrary to the public interest, the City may take corrective action without issuing a corrective order.
- E.** Nothing in these regulations shall prevent the City from making agreements with owners concerning particular driveways, including, but not limited to, an agreement for the City to perform repairs at an owner's expense. No such agreement, however, shall release an owner from future compliance with the duty set forth in Section 12.

#### **SECTION 14 "Dig Safe."**

It shall be the responsibility of the owner or owner's agent to give notice under RSA 374:51 to the Underground Utility Damage Prevention System, commonly referred to as "Dig Safe," prior to performing any work under these regulations.

#### **SECTION 15 Appeals.**

Any decision of the Director with respect to a permit, order or waiver under these regulations may be appealed to the Planning Board by any person directly affected. Procedures for notice and hearing of such an appeal shall be those utilized for minor lot line adjustments, as set forth in RSA 676:4, I(e) and Section 8 of the Subdivision Regulations. The appeal shall be filed within 30 days of the decision being appealed, provided, however, that if the appeal pertains to a corrective order, the appeal must be filed prior to the deadline for corrective action set forth in the order. Any person aggrieved by the decision of the Planning Board upon an appeal under this section may appeal to the Superior Court under RSA 677:15.

#### **SECTION 16 Enforcement And Penalties.**

In accord with RSA 236:14, any person who violates these regulations, or any condition or specification of a permit or order issued under these regulations, shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person, and in addition shall be liable for the cost of restoration of the highway to a condition satisfactory to the Director. The City may take any appropriate enforcement action to prevent unlawful construction, to recover damages, or to restrain, correct or abate a violation.

## **SECTION 17 Definitions.**

Terms in these regulations shall be interpreted consistently with similar terms in the DOT Policy, the Lebanon Zoning Ordinance and the Lebanon Subdivision and Site Plan Review Regulations. In addition:

**“Driveway”** means an area used, or modified for use, as a site for vehicular access onto a Class IV, V or VI public highway from any land which is not a public highway. It includes any entrance, exit or approach, all areas or structures within the limits of the highway right-of-way which are used or modified for driveway purposes, and any portions of the abutting non-highway land whose use for driveway purposes may affect the function or safety of the public highway or of the driveway area within the highway right-of-way. The term includes all driveways, whether or not established under a permit issued by the City, whether established before or after the adoption of these regulations, and whether established before or after the highway became a public highway.

**“Director”** means the Director of Public Works, and shall include the Director and all authorized agents of the Director.

**“Property Served”** by a driveway means any property to which that driveway is appurtenant, including the property abutting the highway at the driveway access point, as well as any other property for which that driveway provides an access for vehicles.

**“Public Highway”** means highway as defined by RSA 229:1, and as further set forth by the common law of New Hampshire, and includes the entire right-of-way in addition to the traveled way.

**“Structures”** means any and all features appurtenant to the driveway, including surfacing, ditches, culverts, headers, swales, pipes, grates, catch basins, retaining walls, and traffic control devices.

**“Traveled Way”** means that portion of the public highway which is used for vehicular travel, or which has been improved with a surface suitable for travel, not including shoulders or ditches. For paved highways, the edge of the traveled way shall be considered the edge of the pavement.